

Appeal from decision of the Alaska State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. F 9153.

Affirmed.

1. Oil and Gas Leases: Known Geologic Structure

A noncompetitive oil and gas lease offer must be rejected where, at any time prior to the issuance of the lease, the land is determined to be within the known geologic structure of a producing oil or gas field.

APPEARANCES: Curtis Johnson, Esq., Anchorage, Alaska, for appellant.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Peter Zamarello has appealed from a decision of the Alaska State Office, Bureau of Land Management (BLM), dated July 26, 1982, rejecting his noncompetitive oil and gas lease offer F 9153. That decision in part states:

The lands in question were defined by the U.S. Geological Survey as being within the known geologic structure of the Gubik Field on December 22, 1957, and redefined on January 22, 1965. Land within a known geologic structure of a producing oil or gas field shall be leased only by competitive bidding to the highest responsible qualified bidder. 43 CFR 3101.1-1(a).

A non-competitive offer to lease certain lands for oil and gas must be rejected where either before or after the filing of the offer and prior to the issuance of the lease the land is determined to be within the known geologic structure of a

producing oil or gas field. William M. Tunner, 54 IBLA 111 (1981); Richard J. DiMarco, 53 IBLA 130 (1981); Pauline C. Lebsack, 50 IBLA 361 (1980).

On August 11, 1982, appellant filed a timely notice of appeal, followed by a statement of reasons.

Appellant contends that his lease offer was improperly rejected because (1) BLM knowingly accepted a noncompetitive oil and gas lease offer for land known to be within a known geologic structure (KGS), and (2) BLM did not act on his offer in a timely manner, prejudicing his rights.

43 CFR 3101.1-1(a) states that: "(a) All public domain lands subject to disposition under the Act may be leased by the Secretary of the Interior. Lands within a known geologic structure of a producing oil or gas * * * [field] shall be leased only by competitive bidding to the highest responsible qualified bidder." See 30 U.S.C. § 226(b) (Supp. V 1981). ^{1/} The lands in question were determined to be within the KGS of the Gubik Field on December 2, 1957, and redefined on January 22, 1965.

[1] A noncompetitive offer to lease certain lands for oil and gas must be rejected where either before or after the filing of the offer and prior to the issuance of the lease the land is determined to be within the KGS of a producing oil or gas field. William T. Alexander, 21 IBLA 56 (1975); James W. McDade, 3 IBLA 226 (1971), *aff'd*, McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), *aff'd per curiam*, 494 F.2d 1156 (D.C. Cir. 1974). Except for establishing priority of consideration, the filing of an application for a noncompetitive lease creates no vested rights in the applicant. The signing of a lease offer by the authorized officer of BLM is the act which constitutes acceptance of the lease offer, creates a binding contract, and causes issuance of a lease. Guy W. Franson, 30 IBLA 123, 125 (1977); Barbara C. Lisco, 26 IBLA 340 (1976). The Department has no discretion to issue a noncompetitive lease on KGS lands, but rather is required by law to reject such an offer. Lida R. Drumheller, 63 IBLA 290, 291 (1982).

Consideration of appellant's offer was halted by Public Land Order (PLO) No. 4582, 34 FR 1025 (Jan. 23, 1969), and subsequent PLO's that withdrew unreserved public lands in Alaska from all forms of appropriation and disposition under the public laws pending consideration, passage, and administration of the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601-1628 (1976 and Supp. IV 1980). The delay in processing by BLM, however, did not create any rights in the land for the appellant. See 43 CFR 1810.3. As stated earlier, the filing of an offer with BLM does not constitute the acceptance of the offer. Accordingly, appellant's offer to lease was properly rejected.

^{1/} The requirement that lands within a KGS of a producing oil and gas field be leased by competitive bidding was part of the original section 17 of the Mineral Leasing Act of 1920, 41 Stat. 443.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Will A. Irwin
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Franklin D. Arness
Administrative Judge
Alternate Member

